



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

VIA FIRST CLASS MAIL

DEC 04 2009

REPLY TO THE ATTENTION OF:

AE-17J

Ms. Kimberly Ferraro
Legal Environmental Aid Foundation of Indiana, Inc.
150 Lincolnway Suite 3002
Valparaiso, Indiana 46383

Re: *Freedom of Information Act (FOIA) Request; EPA RIN-01304-09; Supplemental Response*

Dear Ms. Ferraro:

Enclosed please find a follow-up response by the United States Environmental Protection Agency, Region 5 (EPA or the Agency) to the Agency's October 8, 2009 partial denial of the Legal Environmental Aid Foundation of Indiana, Inc.'s (LEAF) August 10, 2009 FOIA request to EPA for information pertaining to the VIM Recycling, Inc. facility located at 29861 Old US Highway 33 in Elkhart, Indiana.

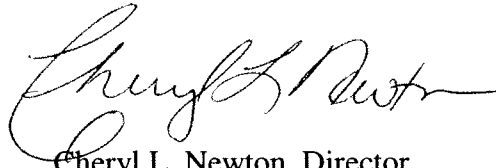
Enclosed are redacted copies of all previously withheld records. The information which has been redacted from these records has been withheld from the agency's response because it has been determined to be exempt from mandatory disclosure by virtue of Exemptions 5 and 7(A) of FOIA, 5 U.S.C. § 552(b)(5) and (b)(7)(A). Exemption 5 of FOIA, 5 U.S.C. § 552(b)(5), protects from disclosure information covered by the attorney/client privilege, attorney work product privilege or deliberative process privilege recognized under common law. Exemption 7(a) of FOIA, 5 U.S.C. § 552(b)(7)(A), protects from disclosure "records or information compiled for law enforcement purposes...to the extent that the production of such law enforcement records or information...could reasonably be expected to interfere with enforcement proceedings." Also, please note that the response does not include copies of any records, e.g. photographs, etc., which were attached to responsive correspondence from LEAF to EPA because the Agency presumed that LEAF would agree that it was not necessary for EPA to reproduce such records in response to the subject FOIA request

Under FOIA, you have the right to appeal this partial denial determination, to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, NW (2822T), Washington, DC 20460 (U.S. Postal Service Only); FAX: (202) 566-2147; or Email: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20001. Your appeal must be made in writing, and it must be submitted no later than 30 days from the date of this letter. The Agency

will not consider appeals received after the 30 calendar day limit. The appeal letter should include the RIN listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

If you have any questions regarding this matter, please contact me, or you may contact Mr. John Steketee of our Regional Counsel's office at (312) 886-0558.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton". The signature is fluid and cursive, with the first name "Cheryl" being more prominent.

Cheryl L. Newton, Director
Air and Radiation Division

Enclosures

cc: J. Steketee, ORC (C-14J)
S. Downey, ARD (AE-17J)
P. Ruesch, LCD (LM-8J)

REGION 5 CONCURRENCE SHEET (ORC)

SUBJECT: In the Matter of VIM Recycling, Inc., Elkhart, Indiana; Supplemental Response to FOIA Request by Legal Environmental Aid Foundation of Indiana, Inc.; EPA RIN-01304-09

CONTROL NO. (if applicable): NA

SF Site Charging "Account String." (SF Account String): 200[8] T 05D 302EC7C

Fill in blanks with the 4 digit Superfund Site ID # + the 2 letter action Code and the 2 digit OU code, if applicable

Originator (Steketee) OP5 Date 12/1/09
 Section Chief (Mendoza) SM Date 12/01/09
 FOIA (Coyle) ACC Date 12/1/09
 Branch Chief: please check statute
 COHEN AA
 KYTE ☐ CERCLA, ☐ CAA112(r), ☐ CWA311, ☐ EPCRA-304/312
 LUPTON ☒ CWA, ☐ SDWA, ☐ GLLA
 NELSON ☐ RCRA, ☐ TSCA, ☐ FIFRA, ☐ EPCRA-313 JK Date 12

DATE IN TO ORC FRONT OFFICE

Deputy Regional Counsel (Frey) BRK Date 12/02/09
 Regional Counsel (Kaplan) ERK Date 12/02/09
 DATE OUT OF ORC FRONT OFFICE _____ Date _____

(Please indicate name of appropriate Division(s) where concurrent signoff is required.)

NAME OF DIVISION AIR Division _____
 Assigned Staff Person 17081 Downey SD Date 12/3/09
 Division Director Sec Chief B. Marable 32 Date 12/3/09
 Other Branch Chief (G. CZERNIAK) 22 Date 12/3/09
 Division Director (C. NEWTON) Ch Date 12/4/09

NAME OF DIVISION

Assigned Staff Person _____ Date _____
 Division Director _____ Date _____
 Other _____ Date _____

OFFICE OF THE REGIONAL ADMINISTRATOR

Other (if applicable) _____ Date _____
 Other (if applicable) _____ Date _____
 Deputy Regional Administrator _____ Date _____
 Acting Regional Administrator (Mathur) _____ Date _____

A White House Executive Memorandum dated June 1, 1998, mandates that ".....The Federal Government's writing must be in plain language." This requirement became effective January 1, 1999. Originator and first level supervisor are responsible for assuring that documents are in plain language. All other reviewers should consider plain language in their reviews. (See plain language checklist of reverse side of this sheet.)

COMMENTS: _____

Plain Language Checklist

Write in the active voice. When you use the active voice, the subject of the sentence acts: "EPA issued the permit to X." When you use the passive voice, the subject of the sentence is acted upon: "The permit was issued to X." If you can ask "By whom?" or "By what?" after the verb, the verb is in the passive voice. A passive verb has a form of the verb "to be" (am, is, are, was, were, be, being, been) plus a main verb usually ending in "en" or "ed."

Use action verbs. Use base verbs instead of nouns derived from verbs.

<i>Don't Say</i>	<i>Say</i>	<i>Don't Say</i>	<i>Say</i>
<i>is applicable to</i>	<i>applies to</i>	<i>make payment</i>	<i>pay</i>
<i>give consideration to</i>	<i>consider</i>	<i>take action</i>	<i>act</i>

Use personal pronouns to represent the reader and to refer to EPA. For example, "The United States Environmental Protection Agency (EPA, we) is issuing an order to X (you, your). We are offering you..."

Write short sentences to aid comprehension. Put one main thought in most sentences. Divide a long sentence into two or three short sentences. Remove all unnecessary words. If there are several conditions or subordinate provisions, make a list.

Omit surplus words and redundancies. Question the need for ~~each and~~ every word.

<i>Don't Say</i>	<i>Say</i>	<i>Redundancies</i>
<i>for the period of</i>	<i>for</i>	<i>true and correct</i>
<i>in order to</i>	<i>to</i>	<i>cease and desist</i>
<i>in the event that</i>	<i>if</i>	<i>order and direct</i>

Place words carefully to reduce ambiguity. Keep subjects and objects close to verbs. Put modifying phrases and words such as "only" and "always" next to the word they modify. She only said that he hired her." She said that only he hired her. She said that he hired only her.

Be consistent. Don't use different words to refer to the same thing (car, vehicle, automobile).

Limit your use of abbreviations and capital letters. Use abbreviations only to refer to terms that are central to the document. Do not abbreviate terms that you only use a few times. Use capital letters to begin sentences and proper names and for headings. You should reconsider all other uses.